

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

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|------------------------------------|---|-----------------------------------|
| SAMUEL LEWIS KEY, JR, | : | |
| | : | |
| Plaintiff, | : | Case No. 5:09-CV-292 (CAR) |
| | : | |
| v. | : | |
| | : | |
| VICTORIA L. MALONE, et al., | : | 42 U.S.C. § 1983 |
| | : | |
| Defendants. | : | |
| | : | |

***ORDER ON THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE***

Before the Court is the United States Magistrate Judge’s Recommendation [Doc. 37] to dismiss Plaintiff’s claims under 42 U.S.C. §1983. Defendants moved to dismiss [Doc. 27] based on Plaintiff’s failure to exhaust his available administrative remedies prior to bringing suit as required by the Prison Litigation Reform Act (“PLRA”). 42 U.S.C. § 1997e(a). Plaintiff entered an objection to the Recommendation [Doc. 38], in which he concedes that he failed to exhaust available administrative remedies and asks the Court to dismiss the case pending the outcome of the grievance process. Having considered the Objection and upon a *de novo* review of the entire record, this Court agrees with the Magistrate’s legal conclusions.

As a matter of law, Plaintiff has failed to state a claim upon which relief can be granted since he did not first pursue an administrative remedy within the prison system. The Recommendation is therefore **ADOPTED** and **MADE THE ORDER OF THE COURT**. Defendants’ Motion to Dismiss is hereby **GRANTED**.

SO ORDERED, this 1st day of July, 2010.

S/ C. Ashley Royal
C. ASHLEY ROYAL, JUDGE
UNITED STATES DISTRICT COURT